

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
GENERAL TIRE & RUBBER COMPANY,

Appellant,

v.

SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB No. 802

FINAL
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER, the appeal of the Order of Violation issued on January 14, 1975 by respondent having come on regularly for formal hearing before Board members Chris Smith and W. A. Gissberg on the 24th day of July, 1975, at Lacey, Washington and appellant General Tire & Rubber Company appearing through its attorney, Robert L. Harris and respondent Southwest Air Pollution Control Authority appearing through its attorney, James D. Ladley with David Akana, hearing examiner presiding and the Board having considered the sworn testimony, the exhibits and having read the stipulations of fact, having considered

1 the contentions and written arguments of the parties, records and
2 files herein and having entered on the 15th day of September, 1975,
3 its proposed Findings of Fact, Conclusions of Law and Order, and
4 the Board having served said proposed Findings, Conclusions and Order
5 upon all parties herein by certified mail, return receipt requested
6 and twenty days having elapsed from said service; and

7 The Board having received no exceptions to said proposed
8 Findings, Conclusions and Order and the Board being fully advised
9 in the premises; now therefore,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
11 Findings of Fact, Conclusions of Law and Order dated the 15th day
12 of September, 1975, and incorporated by this reference herein
13 and attached hereto as Exhibit A, are adopted and hereby entered
14 as the Board's Final Findings of Fact, Conclusions of Law and Order
15 herein.

16 DONE at Lacey, Washington, this 16th day of October, 1975.

17 POLLUTION CONTROL HEARINGS BOARD

18 
19 CHRIS SMITH, Chairman

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21 W. A. GISSBERG, Member
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23
24
25

26 FINAL FINDINGS OF FACT,
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FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of the Order of Violation issued on January 14 1975 by respondent, came before the Pollution Control Hearings Board, Chris Smith, Chairman, and W. A. Gissberg at a formal hearing in Lacey, on July 24, 1975. Hearing Examiner David Akana presided.

Appellant was represented by its attorney, Robert L. Harris; respondent was represented by its attorney, James D. Ladley. Eugene E. Barker, Olympi court reporter, recorded the proceeding.

Having heard the testimony, having seen the exhibits, having read the stipulations of fact, and having considered the contentions and written

EXHIBIT A

1 arguments of the parties, the Pollution Control Hearings Board makes the
2 following

3 FINDINGS OF FACT

4 I.

5 Appellant is the General Tire & Rubber Company. It has its principal
6 office in Ohio.

7 II.

8 On March 19, 1973 respondent Southwest Air Pollution Control Authority
9 (SWAPCA) received an application, No. CL-129, from appellant requesting
10 approval to install certain tire recapping equipment at 8th Avenue in
11 Washougal, Washington.

12 III.

13 On April 18, 1973 respondent issued a letter of approval granting
14 permission to construct and install certain tire recapping equipment.
15 Approval was made subject to the following conditions:

- 16 1. Further control of spray booth and curing emissions may be
17 required to achieve compliance consistant [sic] with
18 Los Angeles "Rule 66" governing discharge of hydrocarbons
as is achievable with modern contaminant control equipment.
- 19 2. Emission control performance capability as applied to
20 detreading and related materials-handling operations shall
21 be demonstrated no later than 5 days after start-up by
22 emission sampling at applicant's expense, and as approved
in advance by the Authority. Results as reported should
show that the equipment is capable of controlling emissions
to the extent that advances in the art will allow.
- 23 3. Implementation of the proposed work as approved shall
24 result in capacity operation of all production and
collection systems as outlined with no visible particulate
emissions.

25 IV.

26 Appellant notified respondent that operation would commence about

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 June 1, 1974. Construction was completed by June 1, 1974 and operation
2 did commence on said date.

3 V.

4 As a part of appellant's operation, rubber from the tread areas of
5 old tires are stripped by buffing machines. These machines rotate an
6 inflated tire against a cutting rasp until the old rubber is removed.
7 This rubber contains a high percentage of petroleum. The stripping
8 process produces fine particulates and generates heat. The heat produced
9 causes the petroleum in rubber subjected to the heat to emit fumes. To
10 remedy the emission problem, three water sprays are directed at the rasp
11 during the stripping process. The volume of water is regulated by a
12 control unit which matches the buffer's load with the required amount of
13 water. By cooling the tire and rasp, generation of some emissions is
14 prevented. Emissions, which are generated despite the water cooling, are
15 then collected by an exhaust hood and transported to a cyclone. After
16 passing through the cyclone, where particulate matter is collected, the
17 exhaust air is discharged into the atmosphere. It is this discharge that
18 has been observed by respondent's inspectors and which has resulted in
19 the Order of Violation issued to appellant.

20 VI.

21 Process cooling provides two distinct benefits. First, the rasp's
22 cutting life is extended because of the lubricating effect of the water.
23 Also, less heat is generated when a sharp rasp is used as compared to a
24 dull rasp. Second, the stripping process runs cooler because the tire
25 is cooled by the water, thereby retarding the liquefaction and gasifi-
26 cation of petroleum in the rubber. As a further and incidental benefit,

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 fine particulates, which when wet tend to adhere to each other, are
2 rendered easier to capture in the cyclone.

3 VII.

4 On June 19, 1974, respondent inspected appellant's plant at which
5 time visual emissions in excess of that allowed by respondent's letter of
6 approval were observed.

7 VIII.

8 On June 21, 1974, respondent informed appellant that emissions
9 exceeding that allowed in the letter of approval were visible from the
10 tire recapping operations.

11 IX.

12 The pollution control equipment approved by respondent and installed
13 on the tire buffers by appellant was, and is, incapable of zero percent
14 opacity emission during continuous operation.

15 X.

16 Respondent's inspectors observed visual emissions from appellant's
17 tire buffing system on November 11, 1974, December 11, 12, and 23, 1974
18 and January 6, 1975. No citations were issued for these violations.

19 XI.

20 On December 27, 1974, respondent's inspectors observed excess visual
21 emissions from the cyclone exhaust of appellant's tire buffing system.
22 A Notice of Violation, No. CS 1350, was issued to appellant. From this
23 Notice of Violation, respondent issued an Order of Violation, No. 75-73.

24 XII.

25 Under proper operation, appellant's equipment will produce opacity
26 readings of 15 percent or less, which is less than the 20 percent opacity

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 limitation found in respondent's Regulation I. Particulate emissions will
2 probably not exceed 0.02 grains per standard cubic foot of air (gr./scf)
3 which is well within the 0.1 gr./scf limitation of respondent's regulations

4 XIII.

5 Section 3.01 of respondent's Regulation I requires that no new air
6 contaminant sources shall be established unless respondent is given an
7 appropriate notice thereof.

8 Section 3.03 of respondent's Regulation I provides in part:

9 (a) Within thirty (30) days of receipt of Notice of Construction
10 and Application for Approval, the Board or Control Officer shall
11 issue an Approval of Construction, or an Order that the construction,
12 installation or establishment of a new air contaminant source will
not be in accord with the applicable emission standards as are
in effect at the time of filing the Notice of Construction and
Application for Approval.

13 (b) No approval will be issued unless the information supplied
as required by Subsection 3.02(a) evidences to the Board or to the
Control Officer that:

14 (1) The equipment is designed and will be installed to
15 operate without causing a violation of the emission
standards.

16 (2) The equipment incorporates advances in the art of
17 air pollution control developed for the kind and amount
of air contaminant emitted by the equipment.

18 (c) If the Board of [sic] Control Officer determines that the
19 construction, installation or establishment of a new air
20 contaminant source will not meet the emission standards, the Board
21 or Control Officer shall, within thirty (30) days of the receipt
of the Notice and Application, issue an Order for the prevention
of the construction, installation or establishment of the air
contaminant source or sources

22 Section 3.04 of respondent's Regulation I provides in part:

23 (a) The owner or applicant shall notify the Board or Control
24 Officer of the completion of construction, installation or
25 establishment and the date upon which operation will commence.
26 The Board or Control Officer shall, within thirty (30) days of
receipt of notice of completion, inspect the construction,
installation or establishment, and the Board or Control Officer
may issue an Order of Violation if he finds that the construction,
installation or establishment is not in accord with the plans,

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

specifications or other information submitted to the Authority, and will be in violation of the emission standards in existence at the date the order was issued.

XIV.

Baghouses (filter bags) and scrubbers are not reasonable or practical solutions to the air emission problems of appellant's tire recapping operation.

An afterburner attached to the cyclonic exhaust would probably eliminate nearly all the emissions from the buffers, but only with the expenditure of an unreasonable amount of energy as compared to the benefit obtained. Moreover, the supply of natural gas, which would fuel the afterburner, is unreliable as to availability.

XV.

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over the persons and over the subject matter of this proceeding.

II.

Respondent and appellant stipulated that the following issues were before the Board:

1. Does the equipment as installed meet the requirements of Regulation I, Section 3.03(b)?
2. The E & J equipment as installed, does it meet the advances of the art?

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 III.

2 Although the parties have agreed to the above issues, Section 3.04
3 of respondent's Regulation I appears to control this matter. (See
4 Finding of Fact XIII.) An "Order of Violation" under Section 3.04
5 may be issued if the construction, installation, or establishment
6 (1) does not comply with the plans submitted to the respondent and
7 (2) will violate "emission standards."

8 It is not argued that appellant's air pollution source is built
9 contrary to the plans submitted. However, assuming arguendo, that it
10 was built contrary to the plans by virtue of the "conditional approval,"
11 no applicable emission standards have been violated. We do not
12 construe "advances in the art" as being an "emission standard."
13 Appellant, having complied with Section 3.04, should not have been
14 issued an "Order of Violation." Of course, if appellant hereafter
15 exceeds any emission standard of Regulation I, it would be subject to
16 enforcement action therein provided. Section 3.04(c).

17 IV.

18 Assuming that the issues raised by the parties determine the
19 outcome of this appeal, we conclude that appellant's equipment, as
20 installed, meets the requirements of Section 3.03(b). We further
21 conclude that appellant's equipment, as installed, "incorporates
22 advances in the art of air pollution control developed for the kind and
23 amount of air contaminant emitted by the equipment." Section 3.03(b)(2).

24 The requirement of "advances in the art" should be determined prior
25 to approval of any construction and should not be the basis upon
26 which an Order of Violation is issued.

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

V.

Any Finding of Fact which should be deemed a Conclusion of Law
is hereby adopted as such.

From these Conclusions, the Pollution Control Hearings Board
makes this

ORDER

Respondent's Order of Violation, No. 75-73, is vacated in all
respects.

DATED this 15th day of September, 1975.

POLLUTION CONTROL HEARINGS BOARD

Chris Smith
CHRIS SMITH, Chairman

W. A. Gissberg
W. A. GISSBERG, Member